Supreme Court, U.S.
FILED
DEC 26 1999

No. 99-743

IN THE

Supreme Court of the United States

KEVIN MCBURNEY,

Petitioner,

v.

JEREMIAH J. JEREMIAH, Jr.,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of the State of Rhode Island

REPLY BRIEF OF PETITIONER, KEVIN MCBURNEY IN SUPPLEMENT OF PETITION FOR A WRIT OF CERTIORARI

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REPLY BRIEF IS REALLY A SUPPLEMENT IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI.BECAUSE RESPONDENT WAVED HIS RIGHT TO RESPOND!

The Petitioner was prepared to reply and refute any attempt by the Respondent to exonerate or excuse his (mis)conduct that he had demonstrated against the Petitioner during 1993-4. The Petitioner's proof in support of his position that the Respondent is not afforded Judicial Immunity for his actions is that precise and clear.

Not surprisingly, the Respondent waived his right to respond and thereby avoided addressing any of the Petitioner's allegations that were directed against him. He chose to remain hidden behind his Shield of immunity. Fearful that the truth will, once again, be 'buried in silence' without the Respondents explanation of his actions, the Petitioner sought instruction with the Clerk of Court whether he could file a Reply or Supplement if the Respondent waived his right to respond. He received permission to do so but was admonished to file same in advance of the date that this Court **will** conference this matter on January 7, 2000 — in order to ensure that it would be reviewed. There is NO repetition of argument.

The Petitioner is compelled to supplement with the factual detail and certain proof in support of his allegations and claims to suggest that the Respondent should not be afforded Judicial Immunity for his actions. The respondent should be held accountable to explain his actions and the devastating harm that he has caused to the Petitioner. The very reason why Petitioner earlier had argued in such a caustic tone was to 'draw the Respondent out' from behind his shield and to

explain himself for what he had done to the McBurney family"[1].

RESPONDENT WAIVED HIS RIGHT TO RESPOND (EXPLAIN) HIS ACTIONS CONCERNING THE 6/25/93 ALTERATION OF THE COURT TRANSCRIPT, THE GUARDIANSHIP, HIS PROTECTION OF DIVORCE ATTORNEYS ENGAGING IN MISCONDUCT AND FRAUD (and more) BECAUSE HE IS GUILTY.

Petitioner has alleged and demonstrated with clear and unequivocal proof that the Respondent had Altered a Court Transcript without disclosing same occurrence; Appointed a Guardianship for the Petitioner as a weapon when the Family Court Judges are not empowered to do so; Protected the acts of fraud and misconduct of Divorce Lawyers by shielding their actions under his 'umbrella of Immunity'; Allowed

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[1] At present, John F. McBurney, Jr. remains hospitalized due to a severe stroke because his children have failed him (he has filed a RI Supreme Court Appeal Against Christene, his own daughter, because of her betrayal of his interests — See 99- , Ann McBurney (Petitioner's mother) travels frequently AWAY from Rhode Island in order to escape her 'pain'; a disgraced (former) brother -in law had tried to hang himself a McBurney relative (State Prosecutor) shot himself in suicide; the McBurney family remains on the verge of complete collapse as the Petitioner, homeless and penniless, has resumed his Corporate litigation (with Counsel) against Christene and continues to pursue Rioles and the others in the State Court as well. If this Court grants this Petition then the Petitioner would clearly demonstrate that all such misfortunes that have crippled the Petitioner and his family are directly attributed to the actions of the Respondent (and those who exploited the advantage by following his lead under his 'umbrella of Immunity" — to wit: Rioles, Beecher and the others — Christene) who had effectively prevented the Petitioner and his father from joining in alliance in 1993. At the very least, in addition to reviewing the Doctrine of Judicial Immunity, the Petitioner will guarantee interesting reading with the valued lesson to be learned concerning the interference with family unity and greed.

court hearings to proceed without a Court Reporter (intentionally in order to facilitate an act of fraud),conducted back-room unrecorded conferences with only the Lawyers present in order to coordinate illegal/ improper activity; influenced other Judges to rule against Petitioner and other improper activity. Yet the Respondent does not refute, explain or even deny the allegations.

Perhaps his 'silence' would indicate complete culpability and reflect his strategy to hide behind his Shield of Immunity. Perhaps he or his attorney realizes that any response would invite Greater scrutiny and contradiction because of the strength of the Petitioners proof in support of what he has alleged.

The ALTERATION OF TRANSCRIPT *(6/25/93)* was not concocted by accident but rather by purposeful intent in order to fraudulently secure Counsel Fees from a ready and available source — $50,000 Savings Bank Account held in restraint by the villainous Rioles. Since Joann (knowing that the $50,000 represented the children's money) and Petitioner understood this ulterior motivation of the Legal Professionals then they could deftly out-maneuver and thwart this fraudulent design by turning the entire account directly over to Joann for application toward child support, thereby releasing the Restraint (and away from the control of the Lawyers who served only their own interests). Even the Respondent could not prevent the Wife from receiving child support in this regard. The Respondent and the Lawyers must have been caught off — guard by this action because they had failed to react. The Respondent would have been within his right if he had Ordered on June 25, 1993 that the $50,000 Bank Account, which is a marital Asset being diminished or dissipated (albeit for child support), should be replenished or re-credited back to the account. However, HE DID NOT DO SO AT THAT TIME! — June 25, 1993. It was clear that the Petitioner and Joann would have vehemently opposed such an

action so the only way to circumvent their opposition to ensure that there would be 'money in the bank' for future counsel fees would be to alter the transcript thereafter. All of the facts, circumstances and events during that time would lead to only this conclusion because there was no preceding or follow-up discussion to any Replenishment suggestion until 4 months later when Rioles had drafted on October 12,1993, An Amended Order of the June 14,1993 which so reflects a replenishment or re-crediting of the account. Standing alone, this Amended Order was seemingly 'Bizarre' as Bigos called it upon his objection because it not only contradicts the original June 14, 1993 Court Order that Rioles had drafted as well but it also misconstrues the events of that time period[2]. When the June 25, 1993 transcript was received In February of 1994, the Alteration by Fraud became clear to understand as the petitioner began to put this mystery together — Detective-style. If the Supreme Court of the United States grants this Petition and sets this matter down for 'Full Briefing' then the Petitioner would set forth in a clear, precise and intelligent manner All of these referred to details that would establish such an Alteration by Fraud. If such an heinous conspiracy had, indeed, taken place then should the Shield of Immunity be afforded to such individuals as the Respondent. Would others similarly pre-disposed attempt the same approach (with the tacit endorsement of the Highest Court in the land). It is enormously difficult to prove such an occurrence, short of an admission of guilt. These are all human beings — Lawyers,

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[2] The June 14, 1993 proceeding never concerned any matter relating to releasing the $50,000 to Joann directly, June 25,1993 did. Rioles had 'got it backwards' in her haste to take advantage of the fact, AS EVERYONE CONCEDES, that no stenographer was present to transcribe events on June 14, 1993. The most logical place to insert an altered reference by fraud would be to insert where no transcript is available to contradict.

Judges and stenographers (the last line of defense re: truthful transcriptions of Court proceedings)-susceptible

As any others to wrongdoing and temptation. The Petitioners Proof is as ' strong as it gets' in order to establish such a clandestinely despicable act with all of its revelations and reverberations-that he is the victim of.

The GUARDIANSHIP APPOINTMENT was an action that not only deprived the Petitioner of all of his Constitutional rights to be notified, heard and offer opposition to such a drastic action that effectively ruined the his life from that point on but it also was an action undertaken beyond the Jurisdiction of the Respondent to so take-only Probate Judges are so empowered to appoint as the Respondent had according to Rhode Island General Laws — Section 33-15-1 *et. seq.* . It must be remembered that the only real issue to be heard during that time — was a menial and inconsequential Motion to Compel answers to Interrogatories that the Petitioners Attorney, who was present throughout this time acting on behalf of the Petitioner, could have handled without the Petitioner being present. Everyone was aware that the Petitioner had more urgent business to tend to in the Federal Court in Boston. To employ such a drastic action goes way beyond all Jurisdiction of the Respondent who had acted in the Complete Absence of same[4].

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[4] The very worst action that the Respondent could have inflicted would have been to Adjudge the Petitioner in Contempt because of his absence and his desire to continue the matter for the Sixth time. There was no Rule of Procedure, Document of Evidence or Edict of Law to support the Respondent for what he had done to the Petitioner with the devastating harm resulting. Because the Respondent has been able to avoid repercussions for his action, the Petitioner has not been able to inquire if there has been any other case situation in the Annals of Family

In any event, if this Petition was granted and the matter went to full brief then the Petitioner would show that this appointment Was made to protect Rioles[4] and the lawyers[5] who were caught by the Petitioner engaging in obvious acts of Fraud and misconduct AS WELL AS to assist Christine McBurney(and others) with her take over of the family law firm[6]. The Guardianship effectively Silenced the Petitioner and Neutralized him as a Pivotal force in the McBurney Family affairs as well as ruining his career.

The PROTECTION OF THE DIVORCE LAWYERS under his umbrella of Immunity because of their acts of fraud, forgery, misrepresentation, deceit, alteration of court orders-etc., embezzlement offunds,CONDUCTING BACK-ROOM SECRET PROCEEDINGS IN CONFERENCE WITH THE LAWYERS, PERMITTING COURT ROOM PROCEEDINGS TO TAKE PLACE WITHOUT A STENOGRAPHER-thereafter Executing false Orders of the

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Court whereby a person had such a devastating appointment made against his personal liberty and rights as a human being.

[4] Rioles is purportedly related by blood to those in Prominent positions in the RI Family Court.

[5] Joanns second lawyer, Robert Beecher, was convicted and received jail sentence for similar exploits that he had conducted as an attorney. The Petitioner and Joann have instituted a Superior Court Civil Action in this regard (P96-4922) that now primarily focuses upon the liability of Beechers former Law Partners for Beechers actions. Beecher has "dropped out of sight".

[6] Petitioner was blackballed as a risk to the law firm with potential liability in the eyes of clients and intense scrutiny from the Disciplinary counsel. Petitioners previously strong alliance and bond with his father was broken and severed, forever. She then proceeded to effectively oust both of us from the Family business in complete take-over. Her perpetration -Arson of the Law Office building in August of 1993 (with the death of a fireman resulting) assisted in this endeavor.

Court to be executed by clerks, IMPERMISSABLY SEALING COURT FILES TO AVOID INQUIRY — but unsealing same in private for Beecher, INFLUENCING ANOTHER JUDGES REVIEW OF A CASE and the other matters alleged would all be addressed upon full brief if this Petition was granted.

Because he is so sure of his proof as well as the culpability of defendant The Petitioner has risked so much and has carried on for so long during these past 7 years. The more the defendants avoids addressing any of these concerns and allegations (preferring to bury them in silence) the more convinced the Petitioner remains of his guilt. . . and the more resolved and determined the Petitioner becomes to see the matter through until the complete truth is told and justice is finally dispensed.

However, if the Respondent is permitted to continue to raise his Shield and shroud all of the inquiry as to the events, circumstances and issues as to his actions during 1993-94 as concerning the Petitioner then the truth might very well be buried along with the Respondents silence and otherwise improper Judicial conduct would go by the way-side, unpunished. Other direputable Judges would review this Case as a 'blue-print' for Engaging in similar (mis)conduct.

By granting this Petition, Respondent would be compelled to step from behind his shield and be made to explain his actions.

CONCLUSION

Based on the arguments presented and the reasons set forth above and in the Petition. The Petitioner respectfully requests that the Court accept certiorari jurisdiction in this case pursuant to Rule 10(a) of the Rules of the supreme Court of the United States and review the Doctrine of Judicial Immunity in light of the facts, circumstances and events as presented by the Petitioners Claims for relief.

Respectfully submitted,

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